
SUBSTITUTE SENATE BILL 5436

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Hale, Fraser, Wojahn, C. Anderson, Kohl, Sheldon, Franklin, Drew, Winsley, Wood, Rasmussen, Loveland, Deccio, Heavey, Snyder, Fairley, Oke and Spanel; by request of Insurance Commissioner)

Read first time 02/02/96.

1 AN ACT Relating to insurer discrimination against victims of abuse;
2 adding a new section to chapter 48.30 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that domestic
5 violence, sexual assault, and child abuse take heavy tolls on our
6 communities, families, and individuals. In order to end these forms of
7 abuse, systemic changes are needed. As a society we have made strong
8 commitments to creating an environment and social infrastructure in
9 which victims of abuse feel safe and are able to take their rightful
10 place in the community. Access to insurance is a vital aspect of
11 day-to-day living and equal access to insurance must be assured.
12 Recent laws establishing health care reform have helped provide this
13 access to insurance and equal access to all for health care coverage in
14 this state. While these laws currently provide protection to subjects
15 of abuse when attempting to obtain or maintain health care coverage,
16 they do not provide protections for these same individuals when
17 attempting to obtain or maintain other important coverages.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.30 RCW
2 to read as follows:

3 (1) For purposes of this section the following definitions apply:

4 (a) "Abuse" means the occurrence of one or more of the following
5 acts:

6 (i) Attempting to cause or intentionally, knowingly, or recklessly
7 causing another person, including a minor child, bodily injury,
8 physical harm, severe emotional distress, psychological trauma, rape,
9 sexual assault, or involuntary sexual intercourse;

10 (ii) Knowingly engaging in a course of conduct or repeatedly
11 committing acts toward another person, including a minor child,
12 including stalking under RCW 9A.46.110;

13 (iii) Subjecting another person, including a minor child, to false
14 imprisonment; or

15 (iv) Attempting to cause, or intentionally, knowingly, or
16 recklessly causing, damage to property so as to intimidate or attempt
17 to control the behavior of another person, including a minor child.

18 (b) "Abuse-related claims" means claims for damages incurred by a
19 subject of abuse under property and casualty policies that are caused
20 by acts of abuse.

21 (c) "Abuse-related medical condition" means a medical condition
22 sustained by a subject of abuse that arises in whole or part out of an
23 act or pattern of abuse.

24 (d) "Abuse status" means the fact or perception that a person is,
25 has been, or may be a subject of abuse, regardless of whether the
26 person has sustained abuse-related medical conditions or has incurred
27 abuse-related claims.

28 (e) "Health carrier" means a disability insurer regulated under
29 chapter 48.20 or 48.21 RCW, a health care service contractor as defined
30 in RCW 48.44.010, or a health maintenance organization as defined in
31 RCW 48.46.020.

32 (f) "Health benefit plan" means any policy, contract, or agreement
33 offered by a health carrier to provide, arrange, reimburse, or pay for
34 health care service.

35 (g) "Subject of abuse" means a person to whom a family member, or
36 a current or former household member, or a current or former intimate
37 partner, or current or former caretaker, or a perpetrator of sexual
38 assault or a sex offender has directed an act defined in (a) of this
39 subsection; who has had prior injuries, illnesses, or disorders that

1 resulted from abuse; or who seeks, may have sought, or should have
2 sought medical or psychological treatment for abuse, protection, court-
3 ordered protection, or shelter from abuse.

4 (2) In addition to those acts or practices prohibited in RCW
5 48.43.015, 48.43.025, and 48.43.035 as existing on the effective date
6 of this act, a person or entity engaged in the business of insurance or
7 as a health carrier in this state shall not engage in any of the
8 following acts or practices against a subject of abuse:

9 (a) Knowingly denying; refusing to issue, renew, or reissue;
10 canceling or otherwise terminating an insurance policy or health
11 benefit plan; restricting or excluding insurance or a health benefit
12 plan coverage; or adding a premium differential to any insurance policy
13 or health benefit plan on the basis of the applicant's, insured's, or
14 enrolled participant's abuse status;

15 (b) Excluding or limiting coverage for losses or denying a claim
16 incurred by an insured as a result of abuse on the basis of the
17 insured's abuse status, except as otherwise permitted or required by
18 the laws of this state relating to acts of abuse committed by an
19 insurance beneficiary;

20 (c) Asking an insured or applicant for an insurance policy or
21 health benefit plan about their abuse status; or

22 (d) Disclosing or transferring any information by any person
23 relating to an applicant or insured who is the subject of abuse, or who
24 has an abuse-related medical condition or abuse-related claim; or the
25 applicant's or insured's status as a family member, employer, or
26 associate, or a person in a relationship with, a subject of abuse, for
27 any purpose unrelated to the direct provision of or payment for
28 specific health care or social services, except where required by the
29 commissioner, a court of competent jurisdiction, abuse reporting laws,
30 or as otherwise required in chapter 70.02 RCW.

31 (3) Nothing in this section prohibits a life insurer from declining
32 to issue a life insurance policy if the applicant or prospective owner
33 of the policy is or would be designated as a beneficiary of the policy,
34 and if:

35 (a) The applicant or prospective owner of the policy lacks an
36 insurable interest in the insured; or

37 (b) The applicant or prospective owner of the policy is known, on
38 the basis of police or court records, to have committed an act of abuse
39 against a prospective insured; or

1 (c) The insured or prospective insured is a subject of abuse, and
2 that person, or a person who has assumed the care of that person if a
3 minor or incapacitated, has objected to the issuance of the policy in
4 good faith and with probable cause on the ground that the policy would
5 be issued to or for the direct or indirect benefit of the abuser.

6 (4) An insurer shall not be held civilly or criminally liable for
7 any cause of action that may be brought because of compliance with this
8 section.

9 (5) Any insurer or health carrier that takes an action that
10 adversely affects a subject of abuse on the basis of an abuse-related
11 medical condition or an abuse-related claim, shall upon written request
12 directly notify in writing the applicant, insured, or enrolled
13 participant, of the reason for the action and must be able to
14 demonstrate that the action, and any applicable policy provision:

15 (a) Does not have the purpose or effect of treating abuse status as
16 a medical condition or underwriting criterion;

17 (b) Is not based upon any actual or perceived correlation between
18 a medical condition or a type of property and casualty claim and abuse;

19 (c) Is otherwise permissible by law and applies in the same manner
20 and to the same extent to all applicants and insureds with a similar
21 medical condition or property and casualty claim without regard to
22 whether the condition or claim is abuse-related; and

23 (d) Is based on a determination, made in conformance with sound
24 actuarial principles and supported by reasonable statistical evidence,
25 that there is a correlation between the medical condition or the type
26 of property and casualty claim and a material increase in insurance
27 risk.

28 (6) Health carriers and insurers shall develop, file with the
29 commissioner, and require employees specifically involved with abuse
30 cases to follow guidelines that encourage greater sensitivity and
31 appropriate behavior when conducting any business in cases involving
32 abuse. Such guidelines shall specify allowable exceptions to the
33 carrier's or insurer's standard operating procedures if the carrier or
34 insurer determines that such exceptions may provide additional
35 confidentiality or other changes that could increase the safety of the
36 victim of abuse.

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